

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE

ASHLEY REMBIS,

Plaintiff,

v.

MAXI DRUG NORTH, INC.,

Defendant.

Civil Action No.

NOTICE OF REMOVAL

PLEASE TAKE NOTICE that pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, Defendant Maxi Drug North, Inc. (“Maxi Drug”), by and through its attorneys, Ogletree, Deakins, Nash, Smoak & Stewart, P.C., hereby removes this action from the Superior Court of the State of New Hampshire, Rockingham County, where the action now is pending, to the United States District Court for the District of New Hampshire. In support of this Notice of Removal, Defendant states as follows:

I. BACKGROUND

1. Plaintiff Ashley Rembis (“Plaintiff”) commenced this action on or about September 14, 2021, by filing her Complaint in the Superior Court of Rockingham County, New Hampshire.

2. Maxi Drug accepted service of the Summons and Complaint through C.T. Corporation on September 23, 2021. A true and correct copy of all process, pleadings and orders as served upon Maxi Drug is attached as Exhibit 1 and incorporated herein by reference.

3. Pursuant to Rule 6(a) of the Federal Rules of Civil Procedure and 28 U.S.C. § 1446(b) this Notice of Removal is filed within thirty (30) days after service of the initial pleadings on which the aforesaid action is based.

II. VENUE

4. The Superior Court of New Hampshire, Country of Rockingham, is located within the District of New Hampshire. *See* 28 U.S.C. § 101. Therefore, venue is proper in this Court because it is the district “embracing the place where such action is pending.” 28 U.S.C. § 1441(a).

III. BASIS FOR REMOVAL: DIVERSITY JURISDICTION

5. This Court has original jurisdiction over this action by virtue of federal diversity jurisdiction pursuant to 28 U.S.C. § 1332. Specifically, Plaintiff is a resident of New Hampshire, and Defendant is incorporated in Delaware with its principal place of business in Pennsylvania. The amount in controversy exceeds the sum of \$75,000.00, exclusive of costs and interest.

6. Plaintiff does not specify the amount in controversy in any filing in Superior Court; however, Plaintiff seeks “**lost wages, lost employment benefits, compensatory damages, enhanced compensatory damages**, and interests and costs.” *See* Exh. 1, Complaint at Wherefore clause (emphasis added). Plaintiff’s Complaint makes it facially apparent that Plaintiff seeks recovery well in excess of \$75,000.00, exclusive of costs and interest.

7. At the time of Plaintiff’s termination on or about September 24, 2018, Plaintiff’s annualized salary was \$142,844.00, not including the value of employee benefits. *See* Exhibit 2, Declaration of Denise Hondorf.

8. Accordingly, removal is appropriate under 28 U.S.C. § 1441 because this Court has diversity jurisdiction over Plaintiff’s claims and all other prerequisites for removal of this case to the United States District Court for the District of New Hampshire have been fulfilled.

9. As this action could have been commenced in this Court, removal is proper. 28 U.S.C. §1441(a).

10. The allegations of this Notice of Removal are true and correct and this cause is removable to the United States Court for the District of New Hampshire.

V. CONCLUSION

11. To date, no pleading has been filed in the state court action, nor have other proceedings transpired in that action.

12. Pursuant to 28 U.S.C. § 1446(d), Defendant Maxi Drug will promptly file a notice to the state court of its removal of this action to federal court, along with a copy of this Notice, in the Superior Court of New Hampshire, County of Rockingham. Additionally, Defendant Maxi Drug will serve a copy of the notice to the state court and a copy of this Notice on Plaintiff's counsel.

13. In accordance with Local Rule 81.1(c), Defendant Maxi Drug will file with this Court attested copies of all records, proceedings, and docket entries in the state court within fourteen (14) days of the date of this Notice.

14. Defendant has sent to the Superior Court for filing the Notice of Filing Removal attached hereto as Exhibit 3.

15. By removing this matter, Defendant Maxi Drug does not waive, or intend to waive, any defense.

WHEREFORE, Defendant Maxi Drug respectfully requests that the Court take jurisdiction of this action and issue all necessary orders and process to remove said action from the Superior Court of New Hampshire, County of Rockingham, to the United States District Court for the District of New Hampshire.

Respectfully Submitted,
MAXI DRUG NORTH, INC.

By its attorneys,
OGLETREE, DEAKINS, NASH,
SMOAK & STEWART, P.C.,

/s/ Aimee B. Parsons

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Dated: October 25, 2021

CERTIFICATE OF SERVICE

I hereby certify that on October 25, 2021, a copy of the within document was served on the following via electronic and First Class Mail as follows:

Benjamin T. King, NH Bar #12888
14 South Street, Suite 5
Concord, NH 03301

/s/ Aimee B. Parsons
Aimee B. Parsons